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DATE: May 18, 2004

TO: Board of Aldermen
Planning and Development Board

FROM: Michael Kruse, Director of Planning and Development
Juris Alksnitis, Chief Zoning Code Official

SUBJECT: **Supplemental information**

Petition # 225-01(3) of ZONING AND PLANNING COMMITTEE proposing a new section of Chapter 30 of the City of Newton Zoning Ordinances governing rear lot subdivisions that would require explicit findings of specific public benefits and standards for mitigation of impacts that must be met before a special permit for this purpose could be granted.

Petition #542-03 of ALD. LIPSITT requesting amendment to Chapter 30 of the City of Newton Zoning Ordinances to allow "rear lot subdivisions" by Special Permit only in cases where a) an as-of-right subdivision plan exists as an alternative, or b) one or more units of affordable housing will be provided.

CC: Philip B. Herr, Chair, Comprehensive Planning Advisory Committee

As a follow-up to the working session on May 10, 2004, Planning Department staff reviewed a smaller sample of individual rear lot cases (approved by the Board of Aldermen during 1991-2003) to ascertain whether these cases would have met suggested new standards, or certain alternative standards under consideration for future rear lots. The results are shown on the enclosed table entitled *Summary of Selected Rear Lots Approved 1991-2003 – Comparison with Potential New Standards- v.2*. It is noted that 4 of the 5 cases would fare better with alternative building separation standards as compared to increased setback standards alone.

Application of the more restrictive FAR alternative (reduced in each zone by an additional .05 as suggested by the Zoning and Planning Committee) would have caused two of the five cases to fail this FAR limit necessitating a decrease in building gross floor area and size. As previously,

all cases met the standards pertaining to building coverage, open space, stories, and building height.

When the proposed alternative standards are applied to the recently petitioned rear lot subdivision at 333 Brookline St. (Petition #213-04), it appears that this rear lot proposal would benefit from the more flexible building separation standard for side yards. However, it would not meet either of the proposed FAR standards with the large residence (5,749 sq. ft.), proposed for this lot.

This limited sample of existing cases suggests that implementation of the more demanding setback standards with an alternative to provide a measure of flexibility in building placement, would provide a constructive tool to help mitigate potential undesirable effects of rear lot development. While providing additional buffering, this mechanism would also utilize a building separation factor to ensure sufficient distances are maintained between existing adjacent residences and the new building proposed for a rear lot, regardless of lot lines. When combined with a more restrictive FAR, this should have the effect of reducing potentially oversize buildings having a disproportionate impact on its neighbors. Additional flexibility provided by the option allowing easements/rights-of-way for vehicular access in place of minimum frontage should also facilitate better site development, as well as common driveways.

The approach emerging from discussions of the Zoning and Planning Committee suggests a more complex set of standard controls that would be applied to potential rear lot developments pursuant to the special permit process. Additional factors to be evaluated as part of special permit site plan review would include considerations such as: average height of abutting residences, relative building size, topographic differentials between the new rear lot structure and adjacent residences, and landscape screening. The standard controls can be summarized in a table similar to other Section 30-15 tables, and made specifically applicable to rear lots. It is our understanding that Law Department staff is working on appropriate language for an amendment to the rear lot provisions in the Zoning Ordinance.

Standards controls, we believe, would also work well as “gatekeepers” for a two-tier rear lot development process as previously suggested by the Planning Department. As noted, this approach would utilize the more demanding standards for processing of as-of-right cases and special permit for defined waivers, and public benefit situations such as affordable housing. However, as the Committee feels that the original public notice for the subject petitions did not contemplate an as-of-right component, we suggest that the as-of-right piece be revisited and considered at a future date.

ATTACHMENT:

Summary of Rear Lots Approved 1991-2003 – Comparison with Potential New Standards – v.2

Summary of Selected Rear Lots Approved 1991-2003
Comparison with Potential New Standards - v.2

Possible minimum "entry" standards for rear lots and alternatives

Petition	Location	Village	SBL	Use	Units	Zone	14% Incr.	30-15(e)	30-15,Tb1	Alt.(1)	50% Incr.	Alt.(2)	Alt.(3)	Alt.(4)			(5)	Alt.(6)	30-15,Tb1		30-15,Tb1	30-15,Tb1	Stamped Plans			# Abuttrs	
							Lot area	25ft. min. to frnt lot	Front Setback	Bld. Sep 2x fr.setb	Side	Bld. Sep 2x sy.setb	Rear	Bld. Sep 2x ry.setb	Frontage	Acc. Eas. or ROW	Max. 20% Acc. Drve	Reduced Max.FAR	XtraRed Max.FAR	Reduced Max.Bld.Cov.	Min. Op Sp %	Max. 2.5 stor.	Max. 30ft. Ht	Arch.	Lands.		Site
18-91	757 Chestnut St.	Waban	53-27-17	1F	1	SR2	Y	Y	N	Y	Y	Y	N	Y	N	Y	n/a - r.o.w.	Y	Y	Y	Y	---	Y	U	U	Y	7 & MBTA & Web.Pk 5
480-96	48 Derby St.	W.Newtor	34-29-5A	1F	1	SR3	Y	Y	Y	Y	N	Y	Y	Y	n/a	est 13%	Y	Y	Y	Y	Y	Y	Y	N	Y		
246-99	509 Hammond St.	Ch. Hill	63-37-1	1F	1	SR1	Y	Y	Y	Y	Y	Y	Y	Y	Y	est 4%	Y	Y	Y	Y	Y	---	N	N	Y		
252-01(3)	153 Webster St.	W.Newtor	33-22-2A	2F	2	MR1	Y	Y	N	N	Y	Y	N	Y	N	Y	est 16%	Y	N	Y	Y	Y	Y	U	U	Y	
206-03	294 Kenrick St.	N. Centre	72-39-10/	1F	1	SR2	Y	Y	Y	Y	Y	Y	N	Y	n/a	n/a	n/a	Y	N	Y	Y	Y	Y	U	N	Y	
5							6																				
New proposed rear lot																											
213-04	333 Brookline St.	Newton	82-20-15	1F	1	SR1	Y	Y	Y	Y	Y	Y(est)	N	Y(est)	Y	Y	n/a-r.o.w.	N	N	Y	Y	TBD	Y	Y	U	Y	3

NOTES:

- 1 Alt. front building separation standard = 2 x 30-15 front setback; minimum standard front setback required.
- 2 Alt. side building separation standard = 2 x 50% increased side yard; minimum standard side yard setback required.
- 3 Alt. rear building separation standard = 2 x 50% increased rear yard; minimum standard rear yard setback required.
- 4 Alt. access standard = easement or legal right-of-way in place of actual 20 ft. frontage
- 5 Reduced FAR standard = FAR capped at gross floor area allowed under standard FAR for minimum lot size divided by new increased minimum lot area for rear lots.
- 6 Alt. extra reduced FAR standard = reduced FAR (see note (5) above) minus further reduction of 0.05.

FAR Detail					
Extra					
Zone	30-15FAR	Red.FAR	Red.FAR	Actual FAR - Cases	
SR1	0.20	0.17	0.12	0.019	509 Hammond St.
				0.178	333 Brookline St.
SR2	0.30	0.27	0.22	0.149	757 Chestnut St.
				0.235	294 Kenrick St.
SR3	0.35	0.31	0.26	0.160	48 Derby St.
MR1	0.40	0.35	0.30	0.319	153 Webster St.

- Legend:
- Meets more flexible alternative standard
- Fails more restrictive alternative standard
- Y Meets indicated standard
- N Does not meet indicated standard
- U Unstamped plan
- Data unavailable
- r.o.w. Right of way
- eas. Easement
- TBD To be determined

Planning and Development Department

05/18/04